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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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In re Applications of	)	MM Docket No. 93-96
ADAM D. GEARHEART	)	File No. BPH-920102MC
ROBERT G. PICKLESIMER	)	File No. BPH-920109MB
For Construction Permit for a	)	
New FM Station on Channel 285A	)	
in Harold, Kentucky	)	

TO: Honorable Joseph Stirmer  
Administrative Law Judge

**PETITION FOR LEAVE TO AMEND**

Adam D. Gearheart ("Gearheart"), by his attorney, hereby respectfully requests the Administrative Law Judge to accept the attached amendment to his application. In support thereof, it is alleged:

1. By Hearing Designation Order, DA 93-348, released April 7, 1993, the Assistant Chief, Audio Services Division, Mass Media Bureau, directed Mr. Gearheart to amend his EEO program, submitted with his original application. See Hearing Designation Order, ¶¶ 2 and 6. Said amendment was directed to be filed within 30 days after the release of the Hearing Designation Order, i.e., May 7, 1993.

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2. An appropriate amendment, responsive to ¶¶ 2 and 6 of the HDO, is attached hereto. This amendment may be filed as a matter of right and, accordingly, no showing of good cause is required, nor is it necessary for the ALJ to act on the merits of the amendment.

April 22, 1993

Law Office of  
LAUREN A. COLBY  
10 E. Fourth St.  
P.O. Box 113  
Frederick, MD 21705-0113

Respectfully submitted,

ADAM D. GEARHEART

By

  
\_\_\_\_\_  
Lauren A. Colby  
His Attorney

File No. BPH-920102MC  
MM Docket No. 93-96  
Channel 285A  
Harold, Kentucky

**AMENDMENT TO APPLICATION FOR A CONSTRUCTION PERMIT  
FOR A NEW FM BROADCAST STATION**

TO: The Federal Communications Commission

The above application is hereby amended by the submission of the attached EEO program. This amendment is responsive to directives set forth in the Hearing Designation Order, DA 93-348, released April 7, 1993, at ¶¶ 2 and 6.

ADAM D. GEARHEART

Dated this 21 day  
of April, 1993.

By: Adam D. Gearheart  
Adam D. Gearheart  
An Individual

**BROADCAST EQUAL EMPLOYMENT OPPORTUNITY**

**MODEL PROGRAM REPORT**

1. APPLICANT

Name of Applicant  ADAM D. GEARHEART	Address  U.S. 23 P.O. Box 592 Harold, KY 41635
Telephone Number (include area code) (606) 478-4141	

2. This form is being submitted in conjunction with:

☒ Application for Construction Permit for New Station      ☐ Application for Assignment of License

☐ Application for Transfer of Control

(a) Call letters (or channel number of frequency) ..... Channel 285A

(b) Community of License (city and state) ..... Harold, KY

(c) Service:

☐ AM      ☒ FM      ☐ TV      ☐ Other (Specify) \_\_\_\_\_

**INSTRUCTIONS**

Applicants seeking authority to construct a new commercial, noncommercial or international broadcast station, applicants seeking authority to obtain assignment of the construction permit or license of such a station, and applicants seeking authority to acquire control of an entity holding such construction permit or license are required to afford equal employment opportunity to all qualified persons and to refrain from discrimination in employment and related benefits on the basis of race, color, religion, national origin or sex. See Section 73.2080 of the Commission's Rules. Pursuant to these requirements, an applicant who proposes to employ five or more full-time employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asians or Pacific Islanders, American Indians or Alaskan Natives and Hispanics). This is submitted to the Commission as the Model EEO Program. If minority group representation in the available labor force is less than five percent (in the aggregate), a program for minority group members is not required. In such cases, a statement so indicating must be set forth in the EEO model program. However, a program must be filed for women since they comprise a significant percentage of virtually all area labor forces. If an applicant proposes to employ fewer than five full-time employees, no EEO program for women or minorities need be filed.

**Guidelines for a Model EEO Program and a Model EEO Program are attached.**

**NOTE:** Check appropriate box, sign the certification below and return to FCC:

☐ Station will employ fewer than 5 full-time employees; therefore no written program is being submitted.

☒ Station will employ 5 or more full-time employees. Our Model EEO Program is attached. (You must complete all sections of this form.)

I certify that the statements made herein are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this 21 day of April, 1993

Signed Adam D. Gearheart

Title Individual Applicant

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.  
U.S. CODE, TITLE 18, SECTION 1001.**

## GUIDELINES TO THE MODEL EEO PROGRAM

The model EEO program adopted by the Commission for construction permit applicants, assignees and transferees contains five sections designed to assist the applicant in establishing an effective EEO program for its station. The specific elements which should be addressed are as follows:

### I. GENERAL POLICY

The first section of the program should contain a statement by the applicant that it will afford equal employment opportunity in all personnel actions without regard to race, color, religion, national origin or sex, and that it has adopted an EEO program which is designed to fully utilize the skills of qualified minorities and women in the relevant available labor force.

### II. RESPONSIBILITY FOR IMPLEMENTATION

This section calls for the name (if known) and title of the official who will be designated by the applicant to have responsibility for implementing the station's program.

### III. POLICY DISSEMINATION

The purpose of this section is to disclose the manner in which the station's EEO policy will be communicated to employees and prospective employees. The applicant's program should indicate whether it: (a) intends to utilize an employment application form which contains a notice informing job applicants that discrimination is prohibited and that persons who believe that they have been discriminated against may notify appropriate governmental agencies; (b) will post a notice which informs job applicants and employees that the applicant is an equal opportunity employer and that they may notify appropriate governmental authorities if they believe that they have been discriminated against; and (c) will seek the cooperation of labor unions, if represented at the station, in the implementation of its EEO program and in the inclusion of nondiscrimination provisions in union contracts. The applicant should also set forth any other methods it proposes to utilize in conveying its EEO policy (e.g., orientation materials, on-air announcements, station newsletter) to employees and prospective employees.

### IV. RECRUITMENT

The applicant should specify the recruitment sources and other techniques it proposes to use to attract qualified minority and female job applicants. Not all of the categories of recruitment sources need be utilized. The purpose of the listing is to assist the applicant in developing specialized referral sources to establish a pool of qualified minorities and women who can be contacted as job opportunities occur. Sources which subsequently prove to be nonproductive should not be relied on and new sources should be sought.

### V. TRAINING

Training programs are not mandatory. Each applicant is expected to decide, depending upon its own individual situation, whether a training program is feasible and would assist in its effort to increase the available pool of qualified minority and female applicants. Additionally, the applicant may set forth any other assistance it proposes to give to students, schools or colleges which is designed to be of benefit to minorities and women interested in entering the broadcasting field. The beneficiary of such assistance should be listed, as well as the form of assistance, such as contributions to scholarships, participation in work study programs, and the like.

## MODEL EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

### I. GENERAL POLICY

It will be our policy to provide employment opportunity to all qualified individuals without regard to their race, color, religion, national origin or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

It will also be our policy to promote the realization of equal employment opportunity through a positive, continuing program of specific practices designed to ensure the full realization of equal employment opportunity without regard to race, color, religion, national origin or sex.

To make this policy effective, and to ensure conformance with the Rules and Regulations of the Federal Communications Commission, we have adopted an Equal Employment Opportunity Program which includes the following elements:

### II. RESPONSIBILITY FOR IMPLEMENTATION

(Name/Title) Adam D. Gearheart/Individual will be responsible for the administration and implementation of our Equal Employment Opportunity Program. It will also be the responsibility of all persons making employment decisions with respect to the recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that our policy and program is adhered to and that no person is discriminated against in employment because of race, color, religion, national origin or sex.

### III. POLICY DISSEMINATION

To assure that all members of the staff are cognizant of our equal employment opportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts will be made:

- ☒ The station's employment application form will contain a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, State or Federal agency if they believe they have been the victims of discrimination.
- ☒ Appropriate notices will be posted informing applicants and employees that the station is an Equal Opportunity Employer and of their right to notify an appropriate local, State or Federal agency if they believe they have been the victims of discrimination.
- ☐ We will seek the cooperation of unions, if represented at the station, to help implement our EEO program and all union contracts will contain a nondiscrimination clause.
- ☐ Other (specify)

#### IV. RECRUITMENT

To ensure nondiscrimination in relation to minorities and women, and to foster their full consideration whenever job vacancies occur, we propose to utilize the following recruitment procedures:

- ☒ We will contact a variety of minority and women's organizations to encourage the referral of qualified minority and women applicants whenever job vacancies occur. Examples of organizations we intend to contact are:

Eastern Star  
Garrett Women's Club  
Virgie Women's Club  
Pikeville Jr. Women's Club  
Pikeville Women's Club  
Democratic Women's Club

Job Corp of Prestonburg  
Junior ROTC of Pike and  
Floyd Counties

- ☒ In addition to the organizations noted above, which specialize in minority and women candidates, we will deal only with employment services, including State employment agencies, which refer job candidates without regard to their race, color, religion, national origin or sex. Examples of these employment referral services are:

State Employment Services (Prestonburg)  
State Employment Services (Pikeville)

- ☒ When we recruit prospective employees from educational institutions such recruitment efforts will include area schools and colleges with minority and women enrollments. Educational institutions to be contacted for recruitment purposes are:

Mayo Technical Institute (Paintsville, KY)  
Garth Vocational School (Martin, KY)  
Pikeville College (Pikeville, KY)  
Prestonburg Community College (Prestonburg, KY)  
Local Area High Schools

- ☒ When we place employment advertisements with media some of such advertisements will be placed in media which have significant circulation or viewership or are of particular interest to minorities and women. Examples of media to be utilized are:

Floyd County Times  
Appalachian News Express (Pike County)  
Lexington Herald

- ☒ We will encourage employees to refer qualified minority and women candidates for existing and future job openings.

## V. TRAINING



Station resources and/or needs will be such that we will be unable or do not choose to institute programs for upgrading the skills of employees.



We will provide on-the-job training to upgrade the skills of employees.



We will provide assistance to students, schools, or colleges in programs designed to enable qualified minorities and women to compete in the broadcast employment market on an equitable basis:

School or Other Beneficiary

Proposed Form of Assistance

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Other (specify)

### FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the application requested is consistent with the public interest. The staff, consisting variously of attorneys, analysts, engineers, and applications examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain the requested authority.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 22<sup>nd</sup> day of April 1993, to the offices of the following:

Honorable Joseph Stirmer  
Administrative Law Judge  
F.C.C.  
2000 L Street, N.W.  
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Traci Maust